

From: Michael Robertson
To: Microsoft ATR
Date: 1/28/02 8:08pm
Subject: Microsoft Settlement

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CC: execs@lindows.com@inetgw,mkagnoff@brobeck.com@inet...

Statement of Michael Robertson, CEO, Lindows.com, Inc.

1. I am the Chairman and Chief Executive Officer of Lindows.com, Inc. ("Lindows.com") and have been employed in that capacity since the company's inception in 2001. I have previously served as founder, CEO and Chairman of MP3.com, an Internet-based digital music storage, management, delivery and promotion company MP3.com, since March of 1998. MP3.com was sold to Vivendi/Universal on August 29, 2001. I have personal knowledge of the facts set forth herein and, if called as witness, I could and would competently testify thereto.

2. Lindows.com, Inc. is a software company currently developing a new personal computer operating system ("OS"), called LindowsOS, that has the ability to run applications written for both the Linux and Microsoft Windows operating systems. Before LindowsOS, a Linux application would run only on a Linux-based operating system, and a Microsoft Windows-based application would run only on a Microsoft Windows operating system.

3. In cooperation with the many open source community programmers, Lindows.com's software engineers have developed a Linux-based operating system with over ten million lines of code, which will incorporate the performance, stability, and security of Linux while being able to run popular Microsoft Windows-compatible applications, as well as all Linux applications. LindowsOS is the commercial culmination of years of computer science research by Lindows.com and other software companies, seeking to harmonize use of the two most common, but incompatible, computer operating systems.

4. Computer and electronics hardware and software cannot function as standalone products. They are integral pieces of a complex environment that businesses and consumers use to be productive, connected, or entertained. Each piece is required to interoperate with the other to be useful to a computer user. Microsoft's software dominance over the last ten years has taken what was once a rich ecosystem of software and hardware innovation and homogenized it as competitors have been legally and illegally put out of business. This "ethnic cleansing" of computer software has left Microsoft and its Win-32 based language, the universal operating system to which any company hoping to penetrate computing OS markets must conform. In other words, for a software company to compete they must speak "Microsoft". If steps are not put into place now to allow others to obtain a dictionary of the language AND be able to speak it without suffering repercussions, there will be no competition to Microsoft for the foreseeable future. If companies other than Microsoft are allowed to speak this language, there will be a resurgence of competition and innovation in computer and electronic software and hardware.

5. This "dictionary" which Microsoft maintains is not the source code to its operating system or middleware, but rather the blueprint for communicating with those products--the APIs. Microsoft's knowledge and control unpublished APIs has allowed it to exert enormous control over how well applications running on a Windows-based platform work. For instance, Microsoft's "Word" word processing program now dominates the word processor market simply because Microsoft itself had nearly exclusive access to its own APIs for years, giving it an advantage in designing its products to perform well with its operating system. It has exercised this same "API control" strategy with many other applications, dominating, for instance, the spreadsheet (Excel) Internet browser (Explorer), presentations (PowerPoint), and media player (Media Player) applications.

6. Even though Microsoft today publishes a tiny number of APIs, it continues to maintain an advantage over competing operating system manufacturers such as Lindows.com and software developers because it fails to disclose information sufficient to allow competitors to design software which fully supports the APIs of the application software, disk formats and file formats. As a result, competing operating system software manufacturers are forced to engage in an expensive process of blindly

attempting to decipher Microsoft's APIs through trial and error. Most companies abandon the process after costly investments and the few that have produced products are very limited in their functionality.

7. Microsoft also exerts enormous anti-competitive influence over OEM hardware manufacturers' configurations of their own hard drives which are controlled by Microsoft's operating system. Since the vast majority of computers shipped over the last 10 years have Microsoft Windows operating system preinstalled, the accompanying hard disks are configured with either vfat or NTFS configurations. The specifications for NTFS and vfat are not published and known only by Microsoft. As with the APIs, because only Microsoft has access to and dictates the specifications for controlling the hard drives installed in these computers, competing operating systems are effectively blocked from information critical to designing effective and stable systems.

8. To restore competition, the "Microsoft dictionary" should be made public. If the language is secret, potential competitors will not be able to speak the common language used by computer hardware and software, and Microsoft alone will continue to exert enormous influence by selecting who can (and can't) know this language. Microsoft must not be able to gain advantage by delaying publication of the common language, so that competitors will have fair opportunity to meet Microsoft to market with products. Full disclosure of all current and future proposed file formats (including VBA scripting language for full PowerPoint compatibility), as well as future updates in advance of commercial releases are necessary to restore balance.

9. Requiring Microsoft to share the language its interfaces use does not dilute the value of what Microsoft creates, as Microsoft is allowed to maintain the proprietary nature of the code for its various programs. Requiring Microsoft to disclose the common language its programs use to interact with other programs and with computer hardware permits independent companies to use this common language to create innovative applications which can fairly compete with Microsoft in the open marketplace, avoiding excessive government monitoring and entanglement.

10. While Microsoft argues that it is continuing to innovate, the fact is that all operating systems vendors are innovating, but because Microsoft controls 95% of the market already, and has been held to have consistently abused that market power to maintain its monopoly, Microsoft is the de facto standard regardless of the comparative benefits of its product. Indeed, recent lapses in the security of Microsoft's XP products have spotlighted just one of the many comparative deficiencies of Microsoft's operating system. Yet, despite the fact that Linux-based operating systems are more secure, more stable, and more affordable for many applications, Microsoft's system continues to dominate. This can only be due to the absence of fair market conditions.

11. Ultimately consumers will benefit as they see enjoy more product choices, which will control pricing through natural market forces. The open source community developing applications for the Linux operating system is a prime example of the myriad of programs and applications which interface sharing can inspire. Thousands of programs currently exist in this environment, created by individuals and major corporations alike, all of which are designed to enhance the functionality of computing.

12. I strongly urge that Microsoft required to publish the specifications for file formats, hard disk formats and programming APIs. With advance and complete disclosure of the Microsoft programming APIs, file formats and disk formats, and with the requisite protection to implement them in the course of building a business, it is possible to restore competition to the computing environment.

I declare under penalty of perjury that the foregoing is true and correct. Executed in San Diego, California, this 28th day of January, 2002.